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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

WRIGHT, et al.

Serial No.: 09/989,976

Filed: November 20, 2001

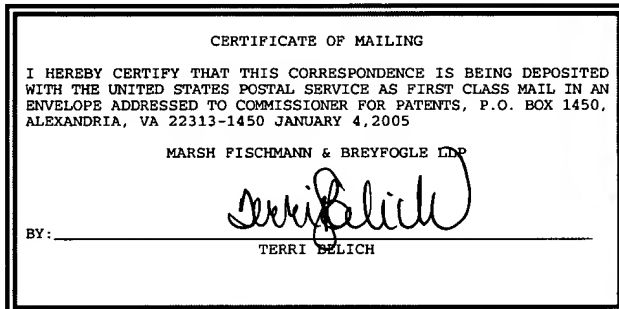
Confirmation No.: 1715

Atty. File No.: 50041-00055 (Formerly DIS-P029)

For: "Dual Mode Near-Eye and Projection
Display System"

) Group Art Unit: 2813

) Examiner: David L. Hogans



RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In an Office Action dated December 14, 2004, the Examiner issued a Restriction Requirement with regard to the above-identified patent application. Generally, the Examiner indicated that each of Species I through Species X (as he categorized them) is a distinct invention. Applicants hereby disagree and traverse this finding as discussed below. As required, however, applicants hereby provisionally elect to prosecute claims 1 and 15-24 (Species III) in this patent application.

The Restriction Requirement is improper for several reasons. First of all, according to MPEP 806.04(f), "[c]laims to be restricted to different species must be mutually exclusive." As merely one example of "species" identified by the Examiner that are not mutually exclusive, claim 2 of Species I provides further detail on the image-generating arrangement of claim 1, namely that the image-generating arrangement is a microdisplay. Claims 9-14 of Species II add a new element, one or more light source arrangements. There is nothing about either the image-

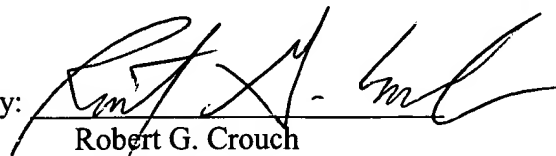
generating arrangement being a microdisplay or the addition of one or more light source arrangements that are mutually exclusive with each other.

Further, claims 15-24 of Species III adds a new element, a mode selection arrangement. Again, this is not mutually exclusive with either the image-generating arrangement being a microdisplay or with the addition of one or more light source arrangements. Similarly, claims 25-29 of Species IV adds first and second optical paths that are not mutually exclusive with the limitations in Species I, II, or III. Also, claim 30 of Species V provides further detail on where the real image of claim 1 is formed. This is not mutually exclusive with any of the limitations in Species I, I, III, or IV. As can be seen none of the claims relating to the first 5 "species" are mutually exclusive and restriction between them is improper. It is respectfully requested that the restriction requirement be removed.

As to restriction between the single claim set of Species I through V and the independent claims of Species VI, VII, VIII, IX, and X, the Examiner has provided no support or reasons for his finding. In fact, these claims are not patentable distinct since they merely seek to claim a single invention in a variety of different types of claim language. They would not be classified separately, nor would they have a separate status in the art, nor would they require a different field of search. In MPEP 806.04, examples of independent inventions such as a shoe (as an article of apparel) and a locomotive bearing are given. The differences between such inventions are many orders of magnitude greater than the differences between the inventions of Species I, VI, VII, VIII, IX, and X in this case. Removal of the Restriction Requirement is hereby requested.

Although the Applicant believes that no fees are due for filing this Response to Restriction Requirement, please charge any fees deemed necessary to Deposit Account No. 50-1419.

Respectfully submitted,
MARSH FISCHMANN & BREYFOGLE LLP

By: 

Robert G. Crouch
Registration No. 34,806
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(720) 562-5506

Date: January 4, 2005